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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 5, 2002

APPLICATION OF

CPV WARREN, LLC

CASE NO. PUE020075

For a certificate of  
public convenience and  
necessity for electric  
generation facilities in  
Warren County, Virginia

ORDER GRANTING CONFIDENTIAL TREATMENT

On February 4, 2002, CPV Warren, LLC ("CPV" or "the Company") filed an application in both confidential and public versions with the State Corporation Commission ("Commission") for approval, pursuant to §56-580 (D) of the Code of Virginia and the revised provisions of 20 VAC 5-302-10 and - 20 of the Virginia Administrative Code, to construct and operate the Warren County Electric Generating Facility ("Facility") ("Facility") in Warren County, Virginia. As part of its application, CPV seeks the confidential treatment of specific commercially sensitive information related to the Facility that CPV Warren deems confidential.

After reviewing the Company's request, the Commission is of the opinion and finds that this matter should be docketed and that a protective order setting forth the procedures by which

confidential information and commercially sensitive information can be handled generally in this proceeding should be entered.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUE020075.

(2) The Clerk of the Commission shall maintain the unredacted copies of CPV's application and accompanying documents under seal. While Staff may have access to and review the nonredacted application and accompanying documents, it shall hold said documents confidential.

(3) Any documents, materials, and information to be filed with the Commission or produced by any party, including the Company, to another party or Commission Staff, that the producing party designates and clearly marks as confidential or as containing trade secrets, privileged or confidential commercial or financial information ("Confidential information"), on and after the date of this Order shall be filed, produced, examined and used only in accordance with the conditions set forth herein. Information that is available to the public anywhere else will not be granted confidential treatment and shall not be designated as "confidential information" by any party.

(4) Parties shall clearly mark and file under seal with the Commission all information otherwise required to be filed

but considered by the party to be confidential information. Parties shall also file with the Commission a redacted version of all documents containing confidential information.

(5) All confidential information filed or produced by a party shall be used solely for the purposes of this proceeding (including any appeals).

(6) Access to confidential information shall be provided and specifically limited to Staff and any party, their counsel and expert witnesses, and to support personnel working on the case under the supervision of said counsel or expert witness and to whom it is necessary that the confidential information be shown for purposes of this proceeding, so long as each such person has executed an Agreement to Adhere to Protective Order ("Agreement"), which is Attachment A to this Order. Staff and Staff counsel are not required to sign the Agreement but are hereby ordered to preserve the confidentiality of the materials. All Agreements shall be promptly forwarded to the producing party upon execution.

(7) Staff or any party may object to the confidential designation of particular information by filing a motion with the Commission. The Commission or assigned Hearing Examiner will conduct an in camera review of the challenged documents, materials, or information. The burden of proving that documents, materials, or information should be designated as

confidential shall be upon the proponent of such treatment. In no event shall any party disclose the confidential information it has received subject to this Order absent a finding by the Hearing Examiner or the Commission that such information does not require confidential treatment.

(a) Within five (5) business days of the filing of this motion objecting to the designation of a document as confidential, the party seeking confidential treatment shall file a reply. The reply shall respond to each and every document and all information that is subject to the party's motion. The reply shall: (1) Describe each document and all information, such description to include the character and contents of each document and all information; (2) Explain in detail why the information requires confidential treatment; and (3) Describe and explain in detail all harms that might be suffered as a result of the failure of the document to be treated as confidential.

(b) Within ten (10) business days of the filing of the reply, the party objecting to confidential treatment may file a response.

(8) In the event that Staff or any party seeks permission to grant access to any person other than a person authorized to receive such information under Paragraph (6) above, the party desiring permission shall obtain the consent of counsel for the producing party. In the event of a negative response, the party seeking disclosure permission may file a motion with the Commission or any Hearing Examiner subsequently assigned for

such permission and shall bear the burden of proving the necessity for such disclosure.

(9) The producing party shall be under no obligation to furnish confidential information to persons other than those authorized to receive such information under paragraph (6) above unless specifically ordered by the Commission or a Hearing Examiner to do so. Parties are encouraged to seek consents to the maximum extent practicable.

(10) The Clerk of the Commission is directed to maintain under seal all documents, materials, and information filed with the Commission in this proceeding that the producing party has designated as confidential information until further orders of the Commission.

(11) A producing party is obligated to separate to the fullest extent practicable non-confidential documents, materials, and information without restriction.

(12) To the extent that a party contends that it should not produce certain items of information because the terms of this Order do not provide sufficient protection to prevent harm to the producing party, the party may file a motion with the Commission or assigned Hearing Examiner requesting additional protective treatment. The producing party has the burden to demonstrate to the satisfaction of the Commission or Examiner

that this Order does not provide the information sufficient protection and that the proposed restrictions are necessary.

(a) The party seeking additional protection shall file all information for which it seeks additional protection under seal with the Commission. The party shall also file with the Commission a redacted version of all documents that contain the confidential information subject to the motion.

(b) The motion shall: (1) Describe each document and all information for which additional protection is sought, such description to include the characters and contents of each document and all information; (2) Explain in detail for each document all information why the confidential treatment afforded under this Order is not sufficient to protect the producing party's interests; (3) Describe and explain in detail all harms that might be suffered if the information is not afforded the higher protection; (4) Explain its proposed additional restrictions and why such restrictions are the minimum necessary to protect that party.

(c) Within ten (10) business days of the filing of the motion, Staff and any party may file a reply to the motion.

(d) Within five (5) business days of the filing of any reply, the producing party may file a response.

(13) In the event Staff or any party seeks to introduce at a hearing testimony, exhibits, or studies that disclose confidential information, Staff or the party seeking such introduction shall:

(a) Notify the producing party at least three (3) days in advance of any such

hearing regarding testimony that is not prefiled unless a shorter period would not unduly prejudice the producing party or is necessitated by the circumstances.

(b) if such testimony is prefiled, file unredacted copies of testimony, exhibits or studies with the Commission under seal, and also file with the Commission redacted copies of all such information, and serve on all parties of record redacted copies of the testimony, exhibits, or studies deleting those parts that contain references to or portions of the designated confidential information. The testimony, exhibits, or studies containing the confidential information filed with the Commission shall be under seal unless and until the Commission rules to the contrary. Each party that has signed Attachment A hereto shall receive an unredacted copy of the testimony, exhibits, or studies that contain references to or portions of the confidential information.

(14) Oral testimony regarding confidential information, if ruled admissible by the Commission or Hearing Examiner, will be taken in camera and that portion of the transcript recording such testimony shall be placed in the record under seal.

(15) No person authorized under this Order to have access to confidential information shall disseminate, communicate or reveal any such confidential information to any person not specifically authorized under this Order or subsequent order or ruling by the Commission to have access.

(16) At the conclusion of this proceeding (including any appeals), any originals or reproductions of any confidential information produced pursuant to this Order shall be returned to

the producing party or destroyed if requested to do so by the producing party. At such time, any originals or reproductions of any confidential information in Staff's possession will be returned to the producing party, destroyed or kept with Staff's permanent work papers in a manner that will preserve the confidentiality of the confidential information. Insofar as the provisions of this Order restrict the communications and use of the confidential information produced thereunder, such restrictions shall continue to be binding after the conclusion of this proceeding (including any appeals) as to the confidential information.

(17) Any party who obtains confidential information and thereafter misuses it in any way shall be subject to sanctions as the Commission may deem appropriate, in addition to any other liabilities that might attach from such misuse.



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AGREEMENT TO ADHERE TO ORDER  
GRANTING CONFIDENTIAL TREATMENT

I, \_\_\_\_\_, on behalf of and  
representing \_\_\_\_\_, hereby acknowledge  
having read and understood the terms of the Order Granting  
Confidential Treatment entered in this proceeding, and agree to  
treat all confidential information that I receive, review, or to  
which I have access in connection with Case No. PUE020075, as  
set forth in that Order.

Signature:\_\_\_\_\_

Print Name:\_\_\_\_\_

On behalf of:\_\_\_\_\_